

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DELBERT GREENE,

Plaintiff(s),

Case No. 2:13-CV-1642 JCM (VCF)

ORDER

V.

THE STATE OF NEVADA DEPARTMENT
OF CORRECTIONS,

Defendant(s).

Presently before the court are Magistrate Judge Ferenbach's order and report and recommendation regarding plaintiff Delbert Greene's motion requesting leave to file a second amended complaint. (Doc. # 33). Defendants filed no objections and the deadline date for filing objections has expired.

A. Background

This case arises out of an incarcerated *pro se* plaintiff's allegations that prison officials confiscated and "maliciously destroyed" his personal property. (See doc. #29.)

On January 15, 2014, the magistrate judge entered a screening order dismissing certain counts and granting plaintiff's motion to amend his complaint. Specifically, the magistrate judge dismissed: count I, alleging retaliation against defendant Tobar, with prejudice; count VII, alleging breach of contract against defendants Williams, Tobar, and Burson, with prejudice; count VIII, alleging denial of the right to access the courts, with prejudice as to defendant Williams; count IX, alleging retaliation against defendant Tobar, as duplicative with count I; and all claims against the state of Nevada and the Nevada department of corrections, with prejudice. (See doc. # 13).

1 On June 11, 2014, plaintiff filed a motion for leave to file a second amended complaint.
 2 Plaintiff's second amended complaint is a copy of the previous complaint, to which plaintiff
 3 added an additional count against a new defendant. The magistrate judge granted plaintiff's
 4 motion and directed the clerk to file the second amended complaint. (Doc #33). The magistrate
 5 judge noted, however, that defendant did not remove from his second amended complaint the
 6 counts that the magistrate judge ordered dismissed in the January 15, 2014, screening order. The
 7 magistrate judge now recommends that all claims previously dismissed by the court in its
 8 screening order (doc. # 13) be dismissed as stated within that order.

9 ***B. Legal Standard***

10 This court "may accept, reject, or modify, in whole or in part, the findings or
 11 recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party fails to object,
 12 the court is not required to conduct "any review at all . . . of any issue that is not the subject of an
 13 objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized
 14 that a district court is not required to review a magistrate judge's report and recommendation
 15 where no objections have been filed. *See United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir.
 16 2003) (disregarding the standard of review employed by the district court when reviewing a
 17 report and recommendation to which no objections were made); *see also Schmidt v. Johnstone*,
 18 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-*
 19 *Tapia* as adopting the view that district courts are not required to review "any issue that is not the
 20 subject of an objection."). Thus, if there is no objection to a magistrate judge's recommendation,
 21 then this court may accept the recommendation without review. *See, e.g., Johnstone*, 263 F.
 22 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to which no
 23 objection was filed).

24 Nevertheless, this court finds it appropriate to engage in a de novo review to determine
 25 whether to adopt the recommendation of the magistrate judge. Upon reviewing the
 26 recommendation, screening order, and underlying briefs, this court finds good cause appears to
 27 adopt the magistrate's findings in full.

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1 Accordingly,

2 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the report and
3 recommendation of Magistrate Judge Ferenbach (doc. # 33) be, and the same hereby, is
4 ADOPTED in its entirety.

5 DATED September 10, 2014.

6 
7 UNITED STATES DISTRICT JUDGE

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